



Paper No. 7

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In re Application of
Tedesco et al.
Application No. 09/853,541
Filed: May 11, 2001
Attorney Docket No. 98-030-C1

OFFICE OF PETITIONS

**DECISION GRANTING
PETITION**

This is a decision on the petition filed August 10, 2001, which is being treated under 37 CFR 1.53(e), to accord the above-identified application a filing date of May 11, 2001.

The petition is **GRANTED**.

Petitioner filed, via Express Mail, nonprovisional application papers on May 11, 2001, under 1.53(b), including a transmittal form which indicated that 54 pages of specification, and 13 pages of formal drawings were submitted, along with an oath or declaration with power of attorney, an Information Disclosure Statement, a preliminary amendment, and an acknowledgment postcard.

On June 11, 2001, the Office of Initial Patent Examination mailed a Notice of Incomplete Nonprovisional Application, stating that formal drawings were not present and that a filing date had not been accorded and the filing date would be the date of receipt of the formal drawings. The Notice also indicated that the basic filing fee was missing.

In response, the present petition was filed, alleging that the formal drawings were deposited on May 11, 2001. In support, petitioner has submitted a postcard receipt which acknowledges receipt of the formal drawings on May 11, 2001.¹ Petitioner has also submitted a copy of the missing formal drawings.

Upon review of the record, the formal drawings, deposited on May 11, 2001, have not been located. However, the evidence is convincing that the application papers deposited on May 11, 2001 included the formal drawings, and that formal drawings were subsequently misplaced in the PTO. Therefore, the application is complete and entitled to a filing date of May 11, 2001.

In view of the above, the petition is **granted**. The copy of the formal drawings submitted with the petition will be used for examination purposes.

The petition fee will be refunded.

¹ Evidence of receipt of any correspondence filed in the Patent and Trademark Office can be obtained by submitting a self addressed post card properly itemizing and identifying the paper or papers being filed. Upon receipt of the correspondence, the Patent and Trademark Office will check the listing on the post card against the papers submitted, making sure that all items listed are present and will then stamp the postcard with an Official date stamp and place the post card in the outgoing mail. "A post card receipt which itemizes and properly identifies the papers which are being filed serves as *prima facie* evidence of receipt in the PTO of all items listed thereon by the PTO." M.P.E.P. § 503.

The Notice mailed June 11, 2001 was sent in error and is hereby vacated.

The Application is being returned to the Office of Initial Patent Examination for further processing with a filing date of May 11, 2001, using the application papers filed on May 11, 2001, and the copy of the formal drawings filed on August 10, 2001.

Telephone inquiries should be directed to Petitions Attorney Michael Sherry at (703) 306-0028.

A handwritten signature in cursive script, appearing to read "Beverly M. Flanagan".

Beverly M. Flanagan
Supervisory Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy